



Fighting for Employee Justice

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November 17, 2022

Via ECF

Hon. Katherine Polk Failla, U.S.D.J.
United States District Court
40 Foley Square, Room 2103
New York, New York 10007

MEMO ENDORSED

Re: **Wellner v. Montefiore Medical Center**
Docket No: 17-cv-03479 (KPF)

Dear Judge Failla:

We represent Plaintiff Rachel Wellner (“Plaintiff”) in the above-referenced employment matter against Defendant Montefiore Medical Center (“Defendant” or “Montefiore”). We write now to respectfully request an adjournment of the trial date in this matter, from April 26, 2023, to mid-to-late September 2023, pending the Court’s availability.¹ Counsel for Defendant, Emily Haigh, Esq. does not oppose this application. This is Plaintiff’s first request for extension of trial. Should the Court grant this application, Plaintiff further requests that the deadline for all pre-trial submissions be adjourned as well, using the same general timeframes set forth in the Court’s prior scheduling order (Docket No. 95).

As the Court may recall, this matter was previously set down for trial on April 26, 2023, pending the Court’s availability on that date.² Since that time, another trial has been scheduled for our firm in the matter of Senior v. Eihab Human Services, Inc., 15 Civ. 1009 (ENV) (PK), for May 8, 2023. The Senior matter involves a severely incapacitated adult male whose sole caretaker is his elderly mother, Marcia Senior, who is dealing with multiple and significant health issues of her own. Therefore, if possible, we would prefer that the Senior case to go forward as scheduled on May 8, 2023. In this regard, we note that the Senior matter was originally scheduled to go to trial two years ago, on November 9, 2020, but was adjourned *sine die* on August 19, 2020, due to the pandemic. More recently, the Senior matter was scheduled to go to trial on February 13, 2023. However, defense counsel in that matter, Andrew Klauber, Esq., requested an adjournment of that

¹ The parties have conferred with one another to explore alternative trial dates, and both sides are available for trial between September 18-29, 2023.

² On July 27, 2022, we were advised by Your Honor’s Law Clerk, Kristen Ridgway, Esq., that a criminal trial was scheduled for the weeks of April 17, 2023 and April 24, 2023, but that we could “double book” with the criminal case in the event that that matter did not go trial.

The Honorable Katherine Polk Failla

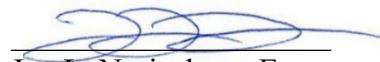
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trial date, as he had already made non-refundable travel arrangements for a family vacation on February 18, 2023 (Ex. A).³ As a result of this request, on September 21, 2022, Judge Vitaliano adjourned the Senior trial to May 8, 2023, leaving virtually no time between the end of the Wellner trial and the start of the Senior trial. Since both the Wellner and Senior cases require a substantial amount of trial preparation, Plaintiff's counsel respectfully requests that the Court adjourn the Wellner trial until mid-to-late September, or some other later date that is mutually acceptable to the Court and the parties, so that plaintiff's counsel can fully and adequately prepare for both trials.

We thank the Court for consideration of this request.

Respectfully submitted,



Jon L. Norinsberg, Esq.

cc: All Attorneys of Record (via ECF)
jon@employeejustice.com

³ As a matter of professional courtesy, we did not oppose defense counsel's application to Judge Vitaliano.

Application GRANTED. Following the Court's discussion with the parties, the trial in this matter is hereby ADJOURNED to **June 20, 2023**. The parties are ordered to appear on that date at **9:00 a.m.** in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York.

Accordingly, the parties' deadline to exchange drafts of their portions of the Joint Pretrial Order is hereby ADJOURNED to **May 16, 2023**. The parties' deadline to file the Joint Pretrial Order, motions in limine, requests to charge, proposed voir dire questions, and pretrial memoranda of law (if any), is hereby ADJOURNED to **May 23, 2023**. Any opposition papers shall be filed by **May 30, 2023**. Additionally, the final pretrial conference previously set for April 12, 2023, is hereby ADJOURNED to **June 1, 2023, at 2:30 p.m.** in Courtroom 618 of the Thurgood Marshall Courthouse, 40 Foley Square, New York, New York.

The Clerk of Court is directed to terminate the pending motion at docket number 96.

Dated: December 2, 2022
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE